

EXHIBIT 46B

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1 OIG had other contacts within the industry?

2 Q. Right.

3 A. To get pricing from? Is that the
4 question?

5 Q. That's the question. Yes.

6 A. I don't know.

7 Q. Now, if you take a look at the second
8 page, this is another example of a contract price
9 lists between Dey and the GPO Community Pharmacy
10 Network, right?

11 A. Yes.

12 Q. And the GPO would have sent this
13 information to Ven-A-Care during the regular
14 course, right?

15 A. Yes.

16 Q. And if you look at the third page, do
17 you know where Ven-A-Care obtained this document?

18 A. This is an AWP price list. Frequently
19 manufacturers would send those to providers in
20 the market, you know, giving you their price
21 list, AWP, WAC list. I don't know. I can't
22 answer it specifically where Ven-A-Care got it.

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1 BY MR. KATZ:

2 Q. Mr. Jones, I've handed you a document
3 marked Dey Exhibit 306. Now, this appears to be
4 a fax from Dey Laboratories to Ven-A-Care
5 Pharmacy and specifically to Lewis Cobo's
6 attention, right?

7 A. That's what it appears, yes.

8 Q. It's dated August 22nd, 1996, right?

9 A. Yes.

10 Q. Whose fax number is that?

11 A. That would be Ven-A-Care's fax.

12 Q. That's not Cobo Pharmacy's fax number,
13 is it?

14 A. No. 1739 is Ven-A-Care, and it's
15 written to Ven-A-Care.

16 Q. Did Mr. Cobo contact Dey to obtain this
17 information?

18 A. I don't know.

19 Q. Now, Ven-A-Care didn't have any direct
20 contract with Dey, right?

21 A. Ven-A-Care was a member of the GPO.

22 Q. Right, but Ven-A-Care didn't have any

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1 contract directly with Dey, right?

2 A. Other than this that I know of, you
3 know -- I mean, this contract. Was that what
4 you're asking me?

5 Q. Contract?

6 A. Oh. No. Not that I know of. No.

7 Q. And to your knowledge, Ven-A-Care
8 didn't have any contract -- I'm sorry, Dey didn't
9 have any contract with Mr. Cobo, right?

10 A. To my knowledge.

11 Q. Now, what's attached here is a price
12 sheet, a contract price sheet that Dey offers to
13 the GPO -- AHT stands for Automated Health
14 Technologies, right?

15 A. Right. Which is CPN PPO.

16 Q. Right. And it states on the price list
17 that these prices were last revised on July 24th,
18 1996, and that they were effective January 1st,
19 1995, and expired December 31st, 1996, right?

20 A. Are you on the back sheet?

21 Q. The second sheet.

22 A. The second sheet. Okay.

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1 Q. Now, these, to your knowledge, weren't
2 special prices for Ven-A-Care, right? They would
3 have been available to other members of the GPO?

4 A. This would be the GPO prices for this
5 contract number. Yes.

6 Q. Now, if you see on the cover page of
7 the fax, it refers to a rebate.

8 A. Yes.

9 Q. Do you know what that rebate was?

10 A. I'm reading it now. They are actually
11 given a better price on the 17 gram inhalant and
12 the half percent solution, the 20 ML solution.
13 And what she's saying is if you contact them, you
14 can get added rebate savings of \$240, and left
15 her phone number and extension. And then she
16 goes ahead and writes out Albuterol, the 17 gram
17 inhaler and the solution, half percent, and
18 writes what the AWP's are.

19 Q. Is this information that Ven-A-Care
20 requested from Dey?

21 A. I can't testify that we -- that Ven-A-
22 Care requested it. I don't know if Lewis

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1 307. When you're ready, let me know.

2 A. I'm ready.

3 Q. Okay. Can you describe this document
4 for the record?

5 A. It is a facsimile from me to Rob Vitto
6 of the OIG. It's Dey Labs pricing for Ven-A-Care
7 Albuterol Sulfate, 3 ML per 25s. And it looks
8 like it's the '97 GPO price that I sent to Mr.
9 Vitto.

10 Q. Going back to the last document for a
11 second, this would be a document -- Dey Exhibit
12 306 is a document maintained by Ven-A-Care in the
13 ordinary course of business?

14 A. Yes.

15 Q. And it would have obtained the
16 information in that document in the ordinary
17 course of its business?

18 A. Yes.

19 Q. And same question for Exhibit 307. Is
20 this a fax that was sent to Mr. Vitto in the
21 ordinary course of Ven-A-Care's business?

22 A. It appears to be. Yes.

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1 Q. And the contract proposal from AHT,
2 that would have been a document received by Ven-
3 A-Care in the ordinary course of business?

4 A. From AHT. Yes.

5 Q. And both of these pages were maintained
6 by Ven-A-Care in the ordinary course of its
7 business?

8 A. Yes.

9 Q. So this is a fax you sent to Rob Vitto
10 of the OIG on February 4th, 1997, right?

11 A. Yes.

12 Q. Did Mr. Vitto specifically ask for this
13 information, or was Ven-A-Care providing this as
14 a -- or was Ven-A-Care just continually providing
15 pricing information to Mr. Vitto?

16 A. I think it's both. I think sometimes
17 Rob called and asked. Sometimes we provided. I
18 don't know specifically if this was one. It's
19 just one page. It may have been something he
20 asked for.

21 Q. But it's also true that Ven-A-Care
22 continuously provided information like this to

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1 MR. KATZ: I meant to say -- I meant to
2 say 305.

3 MS. BROOKER: That one was 305. Maybe
4 he said it two different times.

5 MR. KATZ: I might have said 308, but I
6 meant to say 305. The official document says 305
7 and just so the record is clear, the letter from
8 Dey dated August 30th, 1995 to Community Pharmacy
9 Network/PPN is Dey Exhibit 305.

10 MR. BREEN: Got you. Okay.

11 MR. GORTNER: Give me the Bates
12 information.

13 MR. KATZ: It was Bates numbered R1-
14 022872.

15 BY MR. KATZ:

16 Q. Okay. Have you looked at this
17 document?

18 A. Yes.

19 Q. Okay. Can you describe it for the
20 record?

21 A. It's a facsimile to Mr. Vitto from
22 Zach, and he put my name as well on current

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1 Albuterol prices, but it looks like that was a
2 facsimile that Ven-A-Care received, because it's
3 to our fax number, from RDI.

4 And it gives prices on Ipratropium
5 Bromide, for Roxane Labs and Dey Labs, and
6 Albuterol solution .083 percent for Dey, Warrick,
7 Barr and ASTRA. And the inhalants for Novapharm
8 and Dey Labs, and then the half percent for Dey
9 Labs and Warrick. And then some by glyburide and
10 nebulizer compressors. Basically it's a sales
11 sheet that was faxed to Ven-A-Care from RDI,
12 which is a respiratory solution distributor.

13 Q. And that's a GPO?

14 A. No. They are a wholesaler, actually.
15 RDI.

16 Q. Wholesaler?

17 A. Specialty wholesaler.

18 Q. Is this the type of price sheet that
19 anyone could call up the wholesaler and request?

20 MR. BREEN: Objection. Form.

21 THE WITNESS: Not unless you have a
22 pharmacy license.

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1 BY MR. KATZ:

2 Q. So anyone with a pharmacy license?

3 A. Well, I don't know if anyone. I mean,
4 actually, we didn't even call these. These guys
5 had us on our fax list. We frequently got faxes
6 from these guys and other distributors soliciting
7 business.

8 Q. But just in general, your understanding
9 of the way wholesalers work, could anyone with a
10 pharmacy license call a wholesaler and say,
11 provide us with your price list?

12 A. I don't know if I can answer that
13 question, because I don't know if anybody -- what
14 the pharmacy license means. A doctor could have
15 a pharmacy license. I don't know that he would
16 be able to get wholesale prices from the
17 wholesaler. I just -- I don't know.

18 Q. Let's use Mr. Cobo as an example.
19 Let's assume that this price sheet wasn't sent
20 automatically buy RDI. Could Mr. Cobo call RDI
21 and say, send us your current price sheet for
22 your inhalation drugs?

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1 A. Well, Mr. Cobo could, because he owned
2 a retail pharmacy, and this kind of company would
3 sell to retail pharmacies.

4 Q. So he didn't need to have a contract
5 with RDI. He could just call them and say, send
6 us your price sheet, right?

7 A. No one did. They were wholesalers,
8 specialty wholesalers, distributors.

9 Q. Do you know, to your knowledge, did he
10 have to provide evidence that he was a pharmacist
11 or that he owned a pharmacy?

12 A. When you buy from a company, you have
13 to give them your license, your pharmacy license.

14 Q. Does the pharmacist have to give any
15 other information?

16 A. I'm not a pharmacist. I don't think
17 that he has to give any more than his pharmacy
18 license, his Schedule II drug license. That's
19 also another requirement. You have to show your
20 Schedule II licensing for dispensing Schedule II
21 drugs. That's part of all the paperwork they
22 require.

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1 Q. What is that, the Schedule II
2 licensing?

3 A. Like morphine, Dilaudid.

4 Q. That's not applicable here?

5 A. Well, I don't know if they sell -- I
6 don't know what else they sell besides the
7 inhalations.

8 MR. BREEN: Just for the record, are
9 you talking about DEA registration number?

10 THE WITNESS: For the Schedule II
11 drugs? Yeah. DEA would be a better way of
12 putting it.

13 BY MR. KATZ:

14 Q. And the handwriting on this fax is Mr.
15 Bentley's?

16 A. Yes.

17 Q. And it looks like Ven-A-Care is
18 providing, as it says, current Albuterol prices
19 to Mr. Vitto only two months after it provided
20 the last set of prices, right?

21 A. Yes.

22 Q. Do you know why that was?

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1 A. Because it was a price change, I guess.

2 I'm not sure. Different provider, price change.

3 Q. So Ven-A-Care was just providing
4 additional pricing information?

5 A. Yes.

6 Q. And this price sheet also refers to
7 rebates, so the fact that rebates were available
8 was also provided to the OIG?

9 A. It was provided through this fax. Yes.

10 Q. And this is a document received and
11 maintained by Ven-A-Care in the ordinary course
12 of its business?

13 A. This is a document from Ven-A-Care,
14 yes.

15 Q. And Ven-A-Care sent this -- the copy of
16 the whole exhibit, the fax, is a copy of a
17 document maintained by Ven-A-Care in the ordinary
18 course of its business?

19 A. Yes.

20 (Exhibit Dey 309 was marked for
21 identification.)

22 BY MR. KATZ:

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1 Q. I've handed you a document marked Dey
2 Exhibit 309. Take a look at it and let me know
3 when you're ready.

4 A. Okay.

5 Q. Can you please describe the exhibit for
6 the record?

7 A. This is a fax from me to Jerry Wells of
8 the Florida Medicaid program with a variety of
9 Albuterol pricing, which includes the contract
10 pricing from Greater New York, GeriMed, AHT, CPN
11 PPO, and then we have wholesale pricing from
12 McKesson and PBI pricing, on Albuterol.

13 Q. What's PBI pricing?

14 A. Pharmaceutical Buyers, Inc.

15 Q. Is that a GPO?

16 A. Yes.

17 Q. The fax is dated June 19th, 1997,
18 right?

19 A. Yes.

20 Q. This is your handwriting on the fax?

21 A. Yes.

22 Q. And you recall this document?

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